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International Court of Justice

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CORRECTION SHEET - 21 March 1946

The following corrections should be made in the page numbering in the English Transcript for 21 March 1946:

change 6326 to 6325

" 6327 to 6326

" 6325 to 6327

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Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 26 March 1946, 1000-1245, Lord Justice Lawrence presiding.

MARSHAL OF THE COURT: If it please the Tribunal, Defendant Streicher will be absent from this session of court.

(A recess was taken)

DR. SEIDL: Mr. President, I now turn to the reading of the minutes of the interrogation of the witness Alfred Hess. Before the answering of the first question, the witness made a few preliminary remarks, which are as follows:—

THE PRESIDENT (Interposing): Where shall we find it?

DR. SEIDL: Mr. President, I received this interrogatory only last Saturday, and it has not been possible for me to incorporate it into the document book.

This witness was interrogated at Bad Mergentheim on the 19th of March.

THE PRESIDENT: Do you mean that we haven't got copies of it?

DR. SEIDL: I don't know whether the General Secretary, from whom I received this interrogatory, has supplied copies for the High Tribunal.

THE PRESIDENT: Well, you had better go on then.

DR. SEIDL: Before answering the first question, the witness made afew preliminary remarks which are as follows:

"I would like to say that I had to terminate my activity in the Ausland Organization of the NSDAP, because of the flight to England of my brother Rudolph Hess, Deputy Fuehrer. Therefore, my statements can be taken into consideration only until May 1941 and cover that period of time only.

"Question 1: What were the tasks and the aims of the Ausland organization of the NSDAP?

"Answer: The purpose of the Ausland organization was the cultural, social, and economic care of Reich Germans in foreign countries, whether they were Party members or not. The Ausland organization, in this sense, was to be a

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connecting link between foreign Germans and the home country. It wanted to foster love for their Fatherland, their former home, and to promote understanding of the Fatherland as well as understanding of the Germans at home, to have the rest of the world know the problems that the Germans at home had to meet. The German abroad, through his dignified demeanor in foreign countries, was to make himself popular there in order that he might be the best possible representative of his Fatherland.

"Question 2: Who could become a member of the Ausland organization?

"Answer: This question is not quite intelligible. A membership in the Ausland organization was non-existent. There was no such thing. Neither was there a membership in the Foreign Office of the Reich or in the Gau of the NSDAP in the Reich itself.

"Question 3. Is it correct that each membership card of the NSDAP had the following principles printed on it:

"'Follow the laws of the country whose guest you are. Let the activities of the host country be carried on by the people who live there, and do not interfere, not even in conversation.'?

"Answer: It is correct to say that the above basic principle was printed on the cover of the membership card. If I am not greatly mistaken, underneath this there was the warning that one would be expelled from the NSDAP if this principle were not obeyed.

"Question 4: Did the Ausland organization of the NSDAP develop any activities which might lead one to believe there was Fifth Column activity?

"Answer: Fifth Column is not a clear concept, uniformly used. In general, one would probably mean a secret activity of the nature of sabotage, and according to its basic principle, the Ausland organization could not have any such thing as its activity. I remember that the word 'Fifth Column' appeared in the foreign press, and it was considered that was done as a basis for anti-Fascist propaganda, and it created quite a furore.

"Seriously, no state could conceive the thought that a world famous organization, which was open in all its dealings, could be used a s a secret service in the sense of a Fifth Column. I consider it a matter of course that this or that German abroad had secret missions or services to perform, such as other nationals performed for their home countries, but the Ausland organization

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was never the giver of such instructions nor the intermediary for them.

"Question 5. What kind of instructions and principles did the Deputy of the Fuehrer give to the Ausland organization covering its activity?

"Answer: The directives andbasic principles laid down by the Deputy of the Fuehrer for the activity of the Ausland organization are those mentioned in my answers to questions 1 and 3. There was special emphasis, again and again, in strict directives and instructions, that they were not to do anything which might damage the host countries or anything which might be considered an interference in their internal affairs.

"His basic principle in this direction was that National Socialism was a purely German movement, that it was not an export article which one would want to force on other countries.

"Question 6: Did the Deputy of the Fuehrer give the Ausland organization any directives or orders which might activate them to Fifth Column activity?

"Answer: The Deputy of the Fuehrer not only never gave any such orders or instructions, but, as already established in the answer to Question 5, laid down basic principles which would prohibit any activities of that sort.

"Question 7: Is this correct, that on the contrary, the Deputy of the Fuehrer was always concerned that under any and all conditions interference with the internal affairs of the host country should not take place?

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"Answer: I can repeat only that it was the chief task of the Deputy of the Fuehrer to develop the activity of the Ausland organization abroad in such a way so that under any and all circumstances any interference with the internal affairs of the hos t country would not take place and the few insignificant offenses or infractions which took place because there were several million Germans abroad and a few offenses were inevitable and steps were taken to prosecute.

"Question 8: What were the tasks and the aims of the Volksbund fuer das Deutschtum im Ausland (Association for Germanism Abroad)?

"Answer: The Volksbund fuer das Deutschtum im Ausland was interested in taking care of the Volksdeutche culturally. Volksdeutsche are racial Germans who voluntarily renounced their German citizenship either voluntarily or through legal means and had taken over citizenship in another state, such as, for instance, citizenship in America, Hungary or other countries.

"Question 9: Did the Volksbund fuer das Deutschtum im Ausland, that is before the 10th of May of 1941, develop any activity which might have given it the appearance of a 'fifth column' agency?

"Answer: I must state in this connection that the activity of the Ausland organization did not have any connection with the Volksbund fuer das Deutschtum im Ausland, so I have no way of judging. But I consider it entirely out of the question that my brother charged the Volksbund with fifth column activities in any way or manner whatsoever. It would havebeen possible neither in his capacity as Deputy of the Fuehrer nor with his personal views as to the activity of the Volksbund im Ausland.

The tenth and last question.

"What kind of directives and instructions did the Deputy of the Fuehrer give as to the activity of this Bund?

"Answer: Directives and so forth which my brother gave to this Bund are unknown to me for, as I have already stated, my activity in the Ausland organization was in no way connected with V.D.A. (Volksbund fuer das Deutschtum im Ausland).

"(Signed) Alfred Hess; attested to on the 9th of March 1946."

The witness Alfred Hess was questioned and cross-examined in connection with this interrogatory. I assume that the Prosecution has submitted the result of the

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cross-examination or will wish to do so but if this cross-examination has not been translated, it might perhaps be practicable if it could be read and translated right now.

MR. DODD: If it please the Tribunal, we have received the cross-interrogatories but I suggest respectfully, rather than take the time to read them, we offer them and if the Court will permit us, have them translated into the four languages. It will take about ten minutes or so to read them and we are not interested in doing it unless the Tribunal feels that we should.

THE PRESIDENT: Yes, certainly, Mr. Dodd.

DR. SEIDL: Mr. President, and gentlemen, I do not know whether the affidavit of Ambassador Gauss submitted by me yesterday has been translated and whether you have received these translations. Yesterday afternoon I gave a copy to the Information Office and since that time have not heard from them.

THE PRESIDENT: Would the Prosecution inform the Tribunal what the position is?

SIR DAVID MAXWELL-FYFE: My Lord, the Prosecution have not had a copy of this affidavit yet so we do not know what is in it. I suggest that perhaps Dr. Seidl could postpone the reading of that until we have had a chance of considering it.

THE PRESIDENT: Yes, I am afraid that must be postponed.

DR. SEIDL: Yes.

Now I turn to Volume 3 of the document book.

If it please the Tribunal, this volume of the document book contains, in substance, utterances and quotations taken from books and speeches of foreign statesmen, diplomats and economic experts, tracing the beginnings and origins of Versailles, the contents of the Treaty of Versailles and the territorial changes brought about by the Treaty of Versailles, such as the question of the Polish Corridor and above all the disasterous economic consequences which this treaty brought to Germany and to the rest of the world.

THE PRESIDENT: Yes, Sir David?

SIR DAVID MAXWELL-FYFE: My Lord, I have read the documents in this book and I should like just to say one or two words about them.

They are opinions expressed by a great variety of gentlemen, including

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politicians, economists and journalists. They are opinions that are expressed polemically and some of them journalistically, and with most of them one is familiar and has known them when they were expressed twenty-five to fifteen years ago.

Now, while I submit as I have submitted to the Tribunal, that the whole subject is too remote, I have a suggestion which I hope the Tribunal will consider reasonable, that the Prosecution should, as I suggested yesterday, let this book go in at the moment de bene esse and that when Dr. Seidl comes to making his final speech he can adopt the arguments that are put forward by the various gentlemen whom he quotes, if he thinks they are right. He can use the points as illustrations, always provided the thesis that he is developing is one which the Tribunal thinks is relevant to the issues before it. That will preserve for Dr. Seidl the right to use these documents, as I say, to the relevancy of the issues but I suggest that it would be quite wrong to read them as evidence at the moment. They are merely polemical and journalistic opinions and directed to an issue which the Prosecution have submitted and do submit is too remote.

However, I am most anxious that Dr. Seidl should have every advantage for his final speech. Therefore, I suggest it would be convenient if they were put in without being read at the moment and it was left subject to the limitation of relevancy which can be considered when all the evidence is before the Tribunal for him to make use of, as I suggested, in his final speech.

I hope that the Tribunal may consider that as not only a proper but a reasonable method of dealing with such material.

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DR. SEIDL: Mr. President, may I --

THE PRESIDENT: The Tribunal will hear you in a moment.

Perhaps it would be better to hear what you wish to say now. Do you think the suggestion made by Sir David Maxwell Fyfe would be one which would be acceptable to you?

DR SEIDL: Mr. President, at first glance the suggestion of Sir David seems to be very reasonable, but I do not believe I should say that if the matter is treated in that way great difficulties will arise for the defense. Those arguments for the probative value, which in their nature will be used and heard in the course of this proceeding, will be used in the final speech of the defense, and this would mean that the defense counsel in his final speech again and again will be interrupted; that he will have to debate over the probative value of his quotation; that perhaps whole parts of his speech will fall by the wayside in that manner, and that in that way the danger will arise that the cohesion of his speech will be broken completely.

THE PRESIDENT: Yes, Sir David.

SIR DAVID MAXWELL FYFE: My Lord, that is a danger which every advocate has to meet, that certain portions of his speech may not be deemed revelant, but I thought that that might be a helpful way out. But if that is not accepted then the Prosecution must respectfully but very strongly submit that the issues of the terms of the Treaty of Versailles are not relevant to this Tribunal. I have already argued that and I do not want to develop it at great length. I do want to make it clear that these questions which are raised by the quotation here were, of course, the subject of political controversy in practically every country in Europe and different opinions were expressed as to the rightness and the practicality of the provisions, especially the economic provisions of the Treaty of Versailles. I am not disputing that that was a matter of controversy, but I am saying that it is not a controversy that should come before this Tribunal. I myself have read practically all the quotations from the English statesmen here as a politician over the past years, and I am sure many people in this court must have taken one view or the other, but that is not a relevant issue to this Tribunal and, of course, especially is it wrong in my view to put forward as evidential matters opinions expressed by one side

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in the controversy, Every one of these speeches, as far as the writtings were in English, was either preceded by matters which they were to reply or was followed by a reply, and I should think the same applies to those of Senator Bora and the United States.

My second point is that these are not really evidential matters, that is for argument, and it will have to be decided at some time what is the convenient time as a matter for the Tribunal as to whether this is a relevant issue. That was why I put forward this suggestion, that it was better to decide it when the whole of the true evidence of fact had been put before the Tribunal. But, apart from my suggestion, I do want to make quite clear that that is a matter of relevance. The Prosecution unitedly submit that the rightness or practicality of the provisions of the Treaty of Versailles is not a relevant matter. I want to distinguish between the two arguments. Another argument has been adumbrated by Dr. Stahmer as to the actual terms of the preamble to the military clauses. That is quite a different point which we can discuss when, as I understand, certain propositions of law are to be put forward by one of the defense counsel on behalf of the defense. But, as I say, the rightness and practicallity of the Treaty and especially the economic clauses is a subject of enormous controversy on which there are literally thousands of different opinions from one shade to the other, and I submit it is not an issue before this court and, secondly, I submit this is not evidence. It is not evidential matter, even if that was an issue.

DR. SEIDL: May I perhaps reply briefly?

THE PRESIDENT: Then, Sir David, would your proposition involve that Dr. Seidl could not quote from any of these documents?

SIR DAVID MAXWELL FYFE: Certainly, yes, if on my premise that is an irrelevant matter, he could not.

THE PRESIDENT: Yes, they are not admissible.

SIR DAVID MAXWELL FYFE: They are not admissible.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL FYFE: My original suggestion was, of coursem leaving the discussion of whether they are admissible to all the evidence that had been filed, but if it has not been accepted, I submit bluntly, if I may use

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the word with all respect, that they are not admissible.

THE PRESIDENT: Now, Dr. Seidl.

DR. SEIDL: May I reply briefly, Mr. President?

THE PRESIDENT: Yes.

DR. SEIDL: Mr. President, it would be a misunderstanding or a confusion of intentions if one were to assume that with the submission of this document I would like to prove whether the Treaty of Versailles is a piece of statesman-like wisdom. I am not concerned with that. With the submission of these documents I would like to prove and would like to discuss first of all the opposite side at the conclusion of this Treaty, that is in the preliminary negotiations. I call your attention to the Fourteen Points laid down by President Wilson. I wish to discuss whether they in part committed an infraction of the general obligations of the Treaty and whether a culpa incomprahenda is to be under the discussion here or is to be assumed here.

Point 2. The submission of these documents should show whether the opposition complied with the obligation of the Treaty which were laid down for them so that we can establish dnd give the possibility to the Tribunal of establishing which consequences in right Germany could gather or draw.

Point 3. The Treaty of Versailles and its infractions by the defendant will take a central point and is the nucleus of Point i with reference to the idea of conspiracy. The Prosecution in replying to a question of the Tribunal as to what period of time is to be the determining factor as to the beginning of the conspiracy has said that it applies with the year 1923.

Point 4. The Prosecution --

THE PRESIDENT: I have not the least idea what you meant by the last point. I do not understand what you said in the last point in the least.

DR. SEIDL: I wanted to say that in the beginning of the conspiracy the Treaty of Versailles played a decisive part according to the Prosecution and that the ori in of this Treaty has to be put in some connection of origin with the assertion of the conspiracy before we can talk about something contrary to law and guilt. Facts have to be established which help to bring about the assertion made by the Prosecution with respect to a conspiracy,

Point 4. The Prosecution has proof or evidence of the comprehensive nature

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The Prosecution has submitted this to show the development of the NSDAP. Many document books were submitted to the Court to prove the increase membership to show the increase of everything that took place. Now, if this evidence was relevant, it is my assertion and my opinion that even those circumstances and those facts must be relevant in seeing the whole picture, those facts which made the position of the Party to rise and flourish.

THE PRESIDENT: It is your contention that the opinion of a journalist after the Treaty of Versailles was made, stating that in his opinion the Treaty of Versailles was unjust to Germany, would be admissible either for the interpretation of the Treaty or for other purpose with which this Tribunal is concerned?

DR. SEIDL: Mr. President, I admit that, of course the particular opinion of a foreign journalist here or there must be a relevant document for evidence, but I do wish to assert that the opinion of State Secretary Lansing about the arising of the Treaty of Versailles and its connection with the history prior must be revelant for evidence. What material evidence is to be given is a question which cannot be decided at this point. This question will be decided by the Tribunal when the complete evidence has been submitted. I should like to state further that the opinion of a chairman of the committee for foreign affairs of the Senate of the United States about the Treaty of Versailles, about its ramifications, about its after effects concerning the conspiracy, which was to be contrary to the Treaty of Versailles, as stated by the Prosecution can prima facie might not be revelant. The same thing applies to all the utterances quoted in the document book.

I would like to call your attention to Gustav Kassel and to Heinz, who was the official financial advisor to the British Government and to a group of other people.

THE PRESIDENT: It is your contention that because of the provisions of the Versailles Treaty or because of an infraction of those provisions by the signatory powers, Germany was justified in making an aggressive war?

DR. SEIDL: I cannot speak on that point decisively. As long as I have not seen the evidence of the other defendants, I cannot answer that conclusively and finally, but I do assert that in the infraction of the Treaty of Versailles

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by the signatory powers in certain senses the Germans and the defendants had the right to rearm and wouldhave that tendency, and that in itself is an infraction of the Treaty of Versailles with which the accused are charged. As far as the right to an aggressive war is concerned, I would not like to make any positive commitment at this point until such a time when the High Tribunal has taken official notice of the affidavit of Ambassador Gauss.

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THE PRESIDENT: One more question I should like to ask you: Are you saying that the Fourteen Points which were laid down by President Wilson are admissible evidence to construe the written document of the Versailles Treaty?

DR. SEIDL: I do not say that the Fourteen Points of Wilson, per se, are admissible evidence. I do assert, on the other hand, that the connection between the Fourteen Points of Wilson with the Treaty of Versailles and the contradiction which results therefrom are significant for the conspiracy which the Prosecution is charging.

THE PRESIDENT: Then are you saying that the Versailles Treaty, in so far as it departed from the Fourteen Points, was an unjust treaty?

DR. SEIDL: Mr. President, whether the treaty was just or not, whether it was unjust or not, that is a point which I do not wish to prove with this document at all. Whether it was unjust or not is in my opinion a fact which perhaps is beyond the scope of this proceeding. I do assert, however, that the Treaty of Versailles, at least in many of its terms, did not bring that which the victorious states themselves expected of it.

THE PRESIDENT: Do you wish to add anything more, Dr. Seidl?

DR. SEIDL: Not at this point, your Honor.

(Sir David Maxwell-Fyfe approached the lectern.)

THE PRESIDENT: Sir David, will you give way for a moment.

(Dr. Dix was approaching the lectern.)

DR. DIX: Since we are concernd with a completely practical question which was raised for debate through Sir David, and since the Defense must always count on the possibility that the Tribunal even at this point will reach a decision on the question whether and how far such documentary material as the one we are discussing now may be produced and submitted, I consider myself duty-bound to add to the explanation of my colleague, Dr. Seidl, with whom I agree, to say just a few concluding words.

I would like to reply to the very precise question of your Lordship which started, "Do you consider it relevant?" I believe -- and I will dispense with repetition -- that a very vital point as far as relevance is concerned has not been pointed out previously, and that is the subjective

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aspect, that is the relevance of evidence for research into the subject at hand, that is, the inner side.

If perhaps one of the Defendants committed an act which considered purely objectively was an infraction of the Treaty of Versailles, then as far as criminal code is concerned and looking at it from the subjective view, it is of the utmost significance that we consider the opinion of reasonable and just and educated men of all nations, an attitude and through an opinion, which is not motivated by a view which was not only his own idea, but which agrees with the men of other nations, which fought against Germany in the years 1914-1918. In order to come to the concrete rather than the abstract I would like to cite an example:

A Defendant is in favor of rearmament but not for an aggressive war. I will not touch that question. But he considers that rearmamentis justified, perhaps because the terms of the Treaty were not kept by the other side or perhaps through other acts the terms of the Treaty should be considered obsolete. In my opinion it is of decisive relevancy as evidence whether this defendant -- whether his opinion out of which his acts may be explained, whether he is alone in all the world with his opinion or whether this opinion which guided his action is represented by other men who are to be taken seriously and who belonged to a nation different from Germany -- even those who in the years 1914-18 stood on the other side and were opponents of Germany at that time.

Rearmament according to the idea of the Prosecution is not a crime as such but is used by the Prosecution only as a charge for the proving of crimes in that it led to an aggressive war. If a Defendant can prove that because of clean and decent views, the views which as I have said before were held by men of other nations, and if this Defendant acted accordingly, in all pure conscience as far as international right and international morals are concerned, rather than the needs of his own country, if he acted that way, then along with his utterances, speeches, his views, we should consider the subjective aspect not only relevant but of decisive importance, and this is the view which I would like to recommend to the High Tribunal when it comes to the decision of the point at issue.

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As to the discussion which Sir David just referred to, as far as the practical aspect of the case is concerned, I must agree with Sir David -- and I am speaking for myself only -- that decision on this question be postponed until a later time.

As far as I am concerned I will accept the disadvantages as recognized by Dr. Seidl, because advantages will accrue, for if the Tribunal will decide then on those questions it will have a much larger view of the relevant material for the decision of this question, and which at this point I am not in a position to treat comprehensively and exhaustively.

I am not trying to make a comprehensive speech but just treat with one aspect of this matter.

DR. HORN (Counsel for the Defendant von Ribbentrop):

I should like to add a few remarks to those made by Dr. Dix. I request the High Tribunal --

THE PRESIDENT: The Tribunal would like to know how many of the Defendants' Counsel think that they are entitled to address the Tribunal. If Dr. Horn wishes to add such arguments, the Tribunal are prepared to hear them, but not prepared to hear all the Defendants' Counsel upon points such as this, at this stage. Do any of the others wish to speak? If so, the Tribunal will decide now whether they will hear any more or not.

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It is understood, then, that Dr. Horn alone will address a short argument to the Tribunal? If it is not, then the Tribunal will decide whether they will hear any more argument upon the subject.

DR. HORN: Mr. President, I cannot step up before my colleagues. I would just like to make a few remarks --

THE PRESIDENT: Consult your colleagues, then.

DR. HORN: If you wish a decision on this question, I must speak to my colleagues beforehand.

(Dr. Horn here consulted with a number of Defendants' Counsel)

I would like to add a preliminary remark to what was just said to me by my colleagues. As far as this decision is concerned, the representative of the organization is especially interested in this point. For myself personally I would like to make the following remarks: The Prosecution --

THE PRESIDENT: I asked you to consult the other Defendants' Counsel and ascertain whether they were willing that you should be heard, and you alone. That is the only terms on which I am prepared to hear you.

(Dr. Horn again consulted with his colleagues).

DR. HORN: Yes, Mr. President, my colleagues are agreed that I shall make the last explanation on this point.

THE PRESIDENT: Very well. Go on.

DR. HORN: There is no doubt that the Prosecution as far as vital questions are concerned is referring to infractions of the Versailles Treaty, for the judgment of the infractions of the treaty. In my opinion, it is absolutely important to submit those facts which would deal with the treatment of the infraction as a right. There is no doubt that this treaty was signed under duress. There is no doubt that the Treaty of Versailles was concluded under duress and therefore it seems to be the well-known international law that these treaties were inadequate in many ways and leave much to be desired. The fact which would serve for proving the legality must be shown.

A further question is that -- if I understood Sir David correctly -- of the question of the polemic treatment of the legal, economic and other conferences of the treaty.

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I did not wish to discuss this point, but I would like to ask that my first request be granted, that the legal documentary facts be submitted which would show the legal value of Versailles.

SIR DAVID MAXWELL-FYFE: May it please the Tribunal, if I might deal first with the argument which Dr. Dix has put forward, as I understood his first main proposition, it was this:

That if the Defendant has committed an act which is an infraction of the treaty and can show that in the opinion of reasonable and just and educated men in the states who were the other parties to the treaty, the treaty was so bad that an infraction was justifiable, that is a permissible argument.

I submit that -- with great respect to Dr. Dix -- this is an unsound argument, and baseless, from any principle either of law or materiality. Once it is admitted that there is a treaty and that an infraction is committed, and it follows from the example which Dr. Dix was dealing with, that these are the conceded facts, it is no answer to say that a number of admirable people in the countries which were parties to the treaty believed that its terms were wrong. The treaty is there and the person who knowingly makes an infraction is breaking the treaty, however strong is his support.

In his second point Dr. Dix moved to quite different grounds. He said that this evidence might be relevant in the special reference to the question of rearmament because it might show that the treaty was considered obsolete. Now, it is a rare but nonetheless existing doctrine of international law that treaties, usually minor treaties, can be abrogated by the conduct of the contracting parties. I wouldn't contest that you can't get examples of that, although they are very rare and generally deal with minor matters. But this evidence which is before the Tribunal at the moment is not directed to that point at all. This is, in the main, contemporary polemic evidence saying that certain aspects of the treaty were bad, either from political standards or economic standards. That is a totally different argument from the one which Dr. Dix put forward and which is one which if it came up would have to be faced, that a treaty has become obsolete or that the breaches have been condoned and that therefore the terms have really ceased to exist.

My answer to that is that this evidence is not directed to that point at all

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Now, if Dr. Dix will forgive me -- and I am sure the fault was mine -- I don't quite appreciate what he calls his subjective argument. But in so far as I did appreciate it, there seems to be very good answer -- that if he seeks to suggest that a Defendant's guilt may be less because he, the Defendant, believed the treaty was bad, that is essentially a matter which can be judged by the Tribunal who will hear that Defendant and appreciate and evaluate his point of view. It really doesn't help in deciding whether the Defendant Hess acted because he thought the Treaty of Versailles was a bad treaty, to know what the editor of The Observer, which is a Sunday paper in England, expressed as his views some twenty years ago, or what the Manchester Guardian or indeed -- with all respect to them -- what distinguished statesmen have said in writing their reminiscences years after a matter occurs. The subjective point is an important point in deciding on evidence. The subjective point can be answered by the Defendant himself, in the view of the Tribunal.

Now, Dr. Horn has opened up a much wider question, and one which I submit is entirely irrelevant and beyond the scope of these proceedings.

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He wishes the Tribunal to try whether the Treaty of Versailles was signed under duress. Well, that, of course, would involve the whole consideration of the government of the German Republic, the position of the plenipotentiaries, and the legal position of the persons who negotiated the Treaty.

The answer to that is that this Tribunal is concerned with certain quite clearly stated offenses, which are fully particularized and which occurred in the dates that are stated in the Indictment, and all the evidence that is given as to the actions of the pre-Nazi German government, and, indeed, the Nazi government themselves shows that for years Versailles was accepted as the legal and actual basis on which they must work, and various different methods were adopted in order to try to secure changes of the Treaty, and I need not go into with the Tribunal the whole framework of the Locarno Treaties recognizing Versailles which were signed in 1925 and which were treated as existing and in operation by the Nazi government itself.

With that, these actual facts, it would, in my submission, be completely remote, irrelevant and contrary to the terms of the Charter for this Tribunal to go into an inquiry as to whether the Treaty of Versailles was signed under duress.

As I gathered, Dr. Horn was not so interested in the economic clauses and their rightness or wrongness, but I should respectfully remind the Tribunal that is a matter which is before them at the moment -- that here we have, as I pointed out before, and I do not want to repeat myself, a number of opinions expressed by people of varying eminence and with varying degrees of responsibility at the time that they expressed them, but I do--while strongly maintaining the position which I have endeavored to express with regard to the Treaty--I do equally impress my second point: That to accept as matters of evidence statements which in the main are made from a political standpoint, either in answer to an attack or in making an attack with a background of the politics of the state in which they occurred, is simply a misuse of the term "evidence". That is not evidence of any kind, and I equally -- not equally because the

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first point is one of primary importance which I respectfully urge to the Tribunal, but I also suggest that to tender in evidence matter of that kind is a misuse of the term "evidence"; that they are matters of argument which an advocate may adopt if the argument is a relevant one, but they should not be received in evidence by the Tribunal for that reason.

THE TRIBUNAL: (Mr. Biddle) Sir David, is there anything in the Versailles Treaty that either calls for disarmament by the signatories other than Germany or which looks to such disarment, and, if there is, could you give us the reference to it?

SIR DAVID MAXWELL FYFE: Yes, it is the preamble to the military clauses. That is the point that is usually relied on. It is about four lines at the beginning of the military clauses, and that, in quite general terms, looks to a general disarmament after Germany has disarmed, and of course, the position was that -- I think I have the dates right -- the disarmament was accepted. Whether, in view of the evidence in this case, it should have been accepted does not matter; it was accepted in 1927. After that, you may remember, there were a number of disarmament conferences which examined that question, and eventually in 1933 Germany left the then existing disarmament conference.

Now, I am trying to be entirely objective. I do not want to put the Prosecution view or the Defense view, but that is the position.

MR. BIDDLE: I am not quite clear, when you said "accepted", you meant the extent of the disarmament called for had been accepted by Germany?

SIR DAVID MAXWELL FYFE: Yes, that Germany's response to the demand of Versailles was accepted by the Allies in 1927, and the disarmament commission which had been in Germany then left Germany, under, I think, a French General Nenoue.

MR. BIDDLE: Then, what I understand you to argue is that nothing contained in this folder has anything to do with the possible issue.

SIR DAVID MAXWELL FYFE: No, no.

MR. BIDDLE: That is the point?

SIR DAVID MAXWELL FYFE: It is not on that issue. I mean we will deal with that issue when we come to it. I rather thought from some words that Dr. Stahmer dropped that that would be one of the points that we should

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meet in the general argument on law which will be presented, which the Defense Counsel have --

DR. SEIDL: (Counsel for Defendant Hess) I believe that Sir David is guilty of a small error. In book three of the document books for the Defendant Hess, there are a number of citations from foreign statesmen that refer to this military preamble in the Versailles Treaty and in which it is stated that Germany had fulfilled its obligations in the Versailles Treaty but that there were reciprocal obligations that were not fulfilled.

SIR DAVID MAXWELL FYFE: I am sorry. I did not remember any. I have read it through, and there may be some collateral matters dealing with that, but --and I do not think that I am doing Dr. Seidle's great industry in collecting these matters an injustice in saying that if they do exist they are collateral and the main point of this is an attack on the political and economic clauses of the Treaty. I hope that I have done him justice. I meant to. That is the impression made on me.

THE PRESIDENT: The Tribunal will adjourn).

(A recess was taken until 1400)

H0093-0023

Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, defendants, sitting at Nurnberg, Germany, on 26 March 1946, 1400-1700, Lord Justice Lawrence presiding.

THE MARSHAL: If it please the Tribunal, may I report that the defendant Streicher will be absent from this session of Court.

THE PRESIDENT: The Tribunal rules that evidence as to the injustice of the Versailles Treaty or whether it was made under duress is inadmissible, and it therefore rejects Volume III of the documents on behalf of the defendant Hess.

DR. SEIDL: Mr. President and My Lords Justice, since document three for Rudolf Hess is not admissible in evidence I am, so far as the submission of documents is concerned, at the end of my proceeding.

Now, we are only concerned with the affidavit which I have already submitted made out by Ambassador Gauss, and I beg you not to decide about the admissibility of this document until I have had opportunity to present arguments about the relevance of this affidavit and the secret treaty which is dealt with therein. I would like to point out that with this affidavit solely the facts and the contents of this secret treaty are to be proved; and therefore I shall read only excerpts from it so that the events leading up to it shall not be considered and touched upon by me.

THE PRESIDENT: Dr. Seidl, we understand that this affidavit of the witness Gauss is now being translated and is going to be submitted to the various prosecutors, and will be submitted to us, and they will then inform us. We shall then be able to see whether it is admissible or not, and they will be able to tell us whether they want to have the Ambassador here for the purpose of cross examining him.

DR. SEIDL: Yes.

THE PRESIDENT: So we must postpone that until we get the translations.

DR. SEIDL: Yes. I had the intention to call the defendant as a witness himself. In consideration for his attitude as to the competency of this Court, he has asked me to dispense with this procedure. I therefore forego the testimony of the defendant as a witness and have no further

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evidence to put in at this point.

THE PRESIDENT: Thank you.

Then the Tribunal will now deal with the case against the defendant Ribbentrop.

DR. HORN: Dr. Horn, on behalf of the defendant Ribbentrop.

Your Lordship, my client, Joachim von Ribbentrop, has charged me at the beginning of the evidence to make the following statement for him:

"As Foreign Minister for the Reich, I had to carry through the foreign political directives and principles of Adolf Hitler. For the foreign political deeds which I carried through, I accept full responsibility."

THE PRESIDENT: Dr. Horn, I thought defendants' counsel knew that the rule which we have laid down is that at this stage no speeches shall be made, but that the evidence should be called, the oral evidence should be called, and the documents should be briefly referred to and offered in evidence. Did you not understand that?

DR. HORN: I did not know, Mr. President, that I might not make an explanatory statement on behalf of my client.

THE PRESIDENT: Well, the Tribunal has laid down on several occasions, I think verbally and certainly once in writing, that no speeches can be made now, but that speeches can be made at the time laid down in the Charter. The present opportunity is for all evidence to be given and for documents to be offered in evidence, with such explanatory observations upon the documents as may be necessary.

DR. HORN: The former Foreign Minister for the Reich, Joachim von Ribbentrop, is, according to the Prosecution and the Indictment, according to the trial brief of the British delegation and the verbally presented charges, accused of all items contained in paragraph 6 of the statute and the crimes enumerated therein.

Sir David Maxwell-Fyfe, in the session of the International Military Tribunal of the 8th of January 1946, charged my client with crimes as follows:

First, the using of his offices and of his personal influence and close connections with Hitler to facilitate the taking over of power through the NSDAP and the preparation of war.

Two, participation in the political planning --

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THE PRESIDENT: (Interposing) Dr. Horn, are you making a speech or what are you doing?

DR. HORN: No, Mr. President. I am just enumerating on one page how I would like to arrange my evidence --

THE PRESIDENT: Very well.

DR. HORN: --and I request that I may carry this scheme through.

Point two, Sir David mentioned the participation in the political planning and preparation of the National Socialist conspiracy for aggressive war and the war against International treaties.

He, according to the Prosecution, carries the responsibility for the execution of the plans of the foreign politics as planned by the political conspiracy.

Three, the participation and approval of war crimes and crimes against humanity, especially crimes against persons and property in occupied countries.

The defendant von Ribbentrop has declared himself not guilty on all counts. In order to exonerate him from these charges, I will begin with my presentation of evidence.

The Prosecutor at the beginning of his statement quoted from USA Exhibit Number 5, document PS-2829, and said that the defendant von Ribbentrop was an

SS Obergruppenfuehrer. The Prosecutor asserted that this rank was not an honorary one. On the contrary, the defendant asserts that this rank, which was bestowed upon him by Hitler, of an SS Gruppen and later Obergruppenfuehrer, was granted him only on an honorary basis, for Hitler wished that the members of the Government at official functions would appear in uniform, and the rank of an SS Gruppenfuehrer was in keeping with the official position of the defendant.

The defendant did not take part in the SS, nor did he lead an SS unit. Neither did he have any military training which would be in keeping with a high military rank of any such nature, and for that point I would like to use the defendant himself as a witness.

The Prosecution asserted that von Ribbentrop after the taking over of power for a short period of time was adviser of the Party in foreign political matters. This assertion is contradicted through the document PS-2829, and this document is contained in the document book. I will read Point 3 where it says "Foreign policy collaborator to the Fuehrer, from 1933 to 1938." I am quoting from the first document of the document book, Ribbentrop, Number 1: "Then in the years 1933 to 1938 was only Hitler's adviser in foreign political questions."

The Prosecutor claimed with reference to document D-472, GB-130-- this is document number 2 in the document book, Ribbentrop. We are concerned with an excerpt from the Archives for Communist affairs, that the defendant even before 1932 worked for the NSDAP since he had entered the Party service after 1930. The Prosecution is stating the argument on paragraph 2, which says:

"With reference to his foreign contracts, he arranged new connections with England and France, which he, since 1930 in the service of the NSDAP, had known how to expand."

This claim is not correct. The defendant has up until 1932 no member of a political party in Germany and not of the NSDAP. As far as his political views were concerned, he leared toward the German Volkspartei. That was the party of Strebemann.

In the year 1932 the defendant met Hitler personally. His views on political matters of an internal and external nature --

THE PRESIDENT: (Interposing) Dr. Horn, I don't want to interrupt

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you on this, but I don't understand what you are doing now. You seem to me to be stating a part of the evidence which presumably the defendant von Ribbentrop will give, and, if so, when he gives it it will be cumulative to your statement.

Also, you seem to be referring to documents which have been produced by the Prosecution and answering them yourself. Well, that isn't what the Tribunal desires at this stage. It quite understands that at the appropriate time you will make whatever argument you think right with reference to the evidence which has been brought forward on behalf of von Ribbentrop. But, as I have already said, I thought quite clearly, what the Tribunal wants done now is to hear all the evidence on behalf of von Ribbentrop and to have offered in evidence the documents upon which you will rely, with any short explanatory statement as to the meaning of the document. And if there is any part of a document which has been produced by the Prosecution but not cited by them which you think it necessary to refer to as explanatory of the part of the document which has been used by them, then you are at liberty to offer in evidence that part of the document with any short explanatory words that you wish. But I don't understand what you are doing now except making a speech.

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DR. HORN: Mr. President, I was using the evidence which I wish to present against the claims of the prosecution, for, according to my information and according to my proof and documents, they are not true as to fact. As far as the establishment of point one of what Mr. President just discussed, I would like to state that the health of the Defendant von Ribbentrop is quite poor at present. This morning, his medical adviser told me that von Ribbentrop has vasomotor difficulties which prevent him from speaking and I wanted to present this evidence myself, to show the position of the Defendant to the high Tribunal. I do not know whether the defendant, because of his current state of health as far as the inadequacy of speech is concerned, could make these explanations as briefly as I myself could make them. Then, when the defendant is in the box, he can confirm these statements under oath.

THE PRESIDENT: If the Defendant von Ribbentrop is too ill to give evidence today, then he must give evidence on some future occasion. If you got any oral witnesses to call other than the Defendant Ribbentrop, then they can give evidence today; and with reference to the documentary evidence, it is perfectly simple for you to offer those documents in evidence in the way that it was done by Dr. Stahmer, in the way that it was done by Dr. Seidl, and in the way in which the Tribunal have explained over and over again.

DR. HORN: Mr. President, I had intended to submit documents and later on to call my witnesses. As far as von Ribbentrop is concerned, I would like to state that his state of health has not been improved and I do not know whether at the end of the presentation of evidence, I will be in a position to summon the Defendant Ribbentrop and I must deal with the possibility that I might not be able to call him. I am concerned with just these few general points.

THE PRESIDENT: Dr. Horn, you can't give evidence at any rate andif you can't call von Ribbentrop, then you must call some other witnesses who will give the evidence which he would have given if it is possible to do so. If, unfortunately, it is not possible to do so, then his case might suffer; but the Tribunal will give every possible facility for his being called at any stage. If he is in fact ill, as you suggest, that hecan't give evidence, then his evidence may be putover until the end of the defendant's case, subject of course to a proper medical certificate being produced.

DR. HORN: If The Court will wish to summon the defendant later, I will postpone his case with the request that if I cannot question hi, that is, cannot hear him in completeness -- I would like to emphasize again, he is hampered in his speech -- then he will be able to confirm or attest the evidence [illegible] witness.

THE PRESIDENT: You may call any of the witnesses. The Tribunal hasn't laid down that the Defendant must be called first. You have applied for eight witnesses, I think, in addition to the defendant and you can call any of them or you can deal with your documents but whichever you do, you must do it in the way the Tribunal has ordered.

DR. HORN: Then, I would turn to the occupation of the Rhineland. On the 27/2/1936, between the French Republic and the Soviet Union, a mutual agreement was ratified between these two countries and the content of this treaty was definitely against the Locarno Treaty and against international law. It was clearly pointed against Germany. At the same time --

THE PRESIDENT: You just said that something or other is against international law. Now, that is not a reference to any document which you are offering in evidence nor is it the production of oral evidence. If you have got a document to offer, kindly offer it and then make any necessary explanatory remarks.

DR. HORN: Then, I would like to refer to document No. 1 in Document Book Ribbentrop. We are concerned with a memorandum of the German Government to the signatory powers of the Locarno Pact, of the 7th of March 1936.

THE PRESIDENT: Which page is that?

DR. HORN: Document book, page 6. As an explanatory note, I would like to add that this memorandum was submitted to the signatory powers, for between the French Government and the Soviet Union a treaty of mutual assistance had been ratified and at the same time, the German Foreign Office received knowledge of a plan which the French General Staff had worked out and which had the idea that the French army was to advance according to the Main Line, so that North and Southern Germany would be separated; then also to give --

THE PRESIDENT: Dr. Horn, for the formality of the record, itis necessary to offer each document in evidence and the document should be given a number. You haven't yet offered any of these documents in evidence or given any numbers, so far as I know.

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DR. HORN: Mr. President, I gave the number, Ribbentrop Exhibit No. 1, to this document and the number is in the upper right hand corner of the document.

THE PRESIDENT: Very well.

DR. HORN: And I ask, perhaps to save time, I wish to submit these documents as evidence.

THE PRESIDENT: Very well; and in the order in which you quote them.

DR. HORN: Yes.

THE PRESIDENT: They will be numbered that way. Very well.

DR. HORN: As to the particulars just quoted about the reasons for this memorandum, to prove the just quoted Pact, regarding the conference of the General Staff, I wish to call the Defendant von Neurath as a witness. I would like to question him when he is put on as a witness. In order to justify the German view, which is contained in this memorandum and which consists in the fact that the Locarno Pact and the League of Nations were considered infringed upon, I would like to refer to page three of the document and wish to quote the following: This is page eight of the document book.

THE PRESIDENT: This document Exhibit No. 1, was it one of the documents for which you applied and which you were allowed in the applications?

DR. HORN: Yes, Mr. President. This document is concerned with excerpts from the documents of the German Politics, volume 4, Deutschen Politik, volume 4. That group of documents was granted to me at the same time the evidence book was.

THE PRESIDENT: The Tribunal would like to see the original document.

DR. HORN: Mr. President, we are not in a position to present original documents, since the Foreign Office was confiscated by the victorious powers, including the documents. Then I would like to have the power concerned produce the original documents, for we have no possibility of producing these documents. We can only refer to groups or collections of documents.

THE PRESIDENT: Where does the copy come from?

DR. HORN: This copy, Mr. President, is from the documents of the German Politics, volume 4, as it is shown in the document book which Mr. President has before him. The document will be found on page 123 of this group of documents.

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May I add an explanatory remark. If the Court is interested in seeing the original, the collection which is up in the document room would have to be brought down. This collection is in the German language and I do not believe that it would be of any value to the High Tribunal.

THE PRESIDENT: You see, Dr. Horn, as a matter of formality and certainty, the Tribunal ought to have in its record every document which forms part of the record, whether it is an original or whether it is a copy, and whatever the document is that is offered in evidence, it ought to be handed in to the Tribunal and kept by the Tribunal. It ought to be offered in evidence and handed in to the General Secretary or his representative, and then the Tribunal has a full record of every document which is in evidence.

But we can't treat documents such as this, which is a mere copy of the originaal document which ought to be offered in evidence. If it is at the information center, then it is quite capable of being produced here.

DR. HORN: Mr. President, the Court decided some time ago that we are justified in copying documents and certifying the authenticity so that these documents may be submitted in evidence. Therefore, as far as the evidence that we have on hand is concerned, we compared the copies with the original and at the end of the document we attested the authenticity of the copies. I certified it with my own signature. This document is, I believe, in the hands of the Tribunal, with five copies.

THE PRESIDENT: Yes, Mr. Dodd.

MR. DODD: We think that this might be helpful; We say that we are willing to accept this quotation from the volume referred to, and I do think that we did put in some documents ourselves and ask the Court's indulgence at the time in something of the same fashion.

I think the Court, if I may suggest respectfully, might take this document on that same basis.

I have only conferred with Sir David, but I feel quite sure that our French and Russian colleagues will agree as well.

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THE PRESIDENT: I think, Mr. Dodd, the point is -- and, of course, it is probably only a formal point -- that the only document which is offered in evidence or put in evidence is a copy which doesn't contain Dr. Horn's signature and therefore there is nothing to show that it is in fact a true copy. Of course, if we had Dr. Horn's signature, we should be prepared to accept that it was a true copy of the original. What we have got, of course, is a mere mimeograph, I suppose, of some document which hasn't been produced to us.

MR. DODD: Very well, Your Honor. I hadn't had an opportunity to examine it carefully. We didn't get this document, by the way, until pretty late last night. We have not had the usual period of time to examine it, but in any event, I have suggested it might go in and if Dr. Horn would verify it, as suggested by the Lord Justice and later furnish the original copy, it might be all right.

THE PRESIDENT: That would be all right, certainly.

Dr. Horn, you understand what I mean. If you will produce to us at some future date the actual document which you signed yourself, to show that it was a true copy, that will be quite satisfactory.

DR. HORN: Mr. President, in the entire document book there is no document which I have not signed in five copies and given to be translated. Of course, I cannot sign all the translations. Each document which is contained in your document book had my signature in the German text.

THE PRESIDENT: You mean that you have handed your documents in to be translated, in German, with your signature on the bottom saying it is a true extract, and you don't know where those documents are because they have gone into the Translation Department. That is right, isn't it?

DR. HORN: Only partially, Mr. President. I know that I handed these documents, in German, to the proper office, and my signature was on the German text. That office sent them on to be translated. From the moment I gave the document up I had no further control over their whereabouts or their disposition.

I would like to point out that the document books which we used were only available in a single copy for the use of all attorneys and the same obtains now for our future work. Because of that, I cannot produce the

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original since it is not my property. That can only happen with the agreement of the person in charge of the document book, Lt. Shrader.

THE PRESIDENT: Dr. Horn, if, in thefuture, you and the other defense counsel could get your document books ready in sufficient time, you could perhaps then make the arrangement that you hand the document book, when you were offering it, in evidence, and then it would be capable of being handed to the officer of the Court.

DR. HORN: Mr. President, I do not believe that that possibility would exist at all, for these documents of German politics -- just to use the point at issue -- are available only in one copy at the disposal of all defense attorneys. I cannot take these books away from my colleagues if they wish to continue working on them, and I cannot submit them to the High Tribunal as evidence. I receive these books only to use them, and then I have to return the books.

THE PRESIDENT: Yes, but you are putting in evidence now a certain extract from the book, and all the Tribunal wants is that that extract be certified, either by you or by some other person who can be trusted, as a correct extract from the book, and that document, so signed, can be produced. It may be difficult to produce it at the moment because you have handed it in to some official or to somebody in the Translation Department and therefore you can't produce it, but it could be arranged that it should be produced in the future. I don't mean this particular one, but in the future other defense counsel can produce their documents certified by themselves or by some other person of authority.

DR. HORN: That has already been done, Mr. President. Five document books of the same type were handed to the Tribunal and they were all signed. Five copies were handed in.

THE PRESIDENT: Yes. Well, the rule of the Tribunal happens to be that they should be handed in in this court at the time that they are being used, as well as their being handed in to somebody for the purpose of translation. That is the rule.

But now perhaps we had better get on as we are taking up too much time over this.

DR. HORN: I have just heard that the documents which I signed are being sent for from the General Secretary, so I will be able to submit them

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to the Tribunal signed in German.

THE PRESIDENT: Very well.

DR. HORN: I would like to continue. Regarding the legal consequences of thepact made between France and Russia in 1937, I would like to quote from page 3, that is, page 8 of the document books:

"Consequently, the real question is whether France by accepting treaty obligations has kept herself within those limits, as regards Germany, which were imposed on her by the Rhine pact.

"This, however, the German government must deny.

"The Rhine pact was supposed to achieve the goal of securing peace in Western Europe by having Germany on the one hand, and France and Belgium on the other, renounce for all time the employment of military force in their relations to each other. If, at the conclusion of the pact, certain reservations to this renunciation of war, going beyond the right of self-defense, had been permitted, the political basis was, as is generally known, solely the fact that France had already taken on certain pact obligations towards Poland and Czechoslovakia which she did not want to sacrifice to the idea of absolute peace security in the West.

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Germany at that time resigned herself, with a clear conscience, to these restrictions of the renunciation of war. She did not object to the treaties with Poland and Czechoslovakia, put on the table of Locarno by the representative of France, but only with the self-understood presupposition that these treaties adopt themselves to the structure of the Rhine pact and not contain any provisions about execution of Article 16 of the Statute of the League of Nations, as are provided for in the new French-Soviet agreements. This corresponded also to the contents of this special agreements, which came to the knowledge of the German Government at that time. The exceptions permitted in the Rhine pact by all means are not expressly oriented towards Poland and Czechoslovakia, but were formulated in an abstract manner. But it was the sense of all negotiati ns concerning this matter to find a balance between the German-French renunciation of war and the desire of France for maintaining her pact obligations already in existence. If, therefore, France now uses the abstract formulation of war possibilities, permitted by the Rhine treaty, in order to conclude a new pact against Germany, a new pact with a well armed State, if she thus in such a decisive manner limits the application of the renunciation of war, agreed upon by her and Germany, and if she, by doing as so set forth above, does not even observe the fixed formal juridical limits, then she has created thereby a completely new situation and has destroyed the political system of the Rhine pact as much in theory as in practice."

I will omit the next paragraph and will quote from page 9 of the document book as follows:

"The German Government has always emphasized during the negotiation of recent years that it would maintain and carry out the obligations resulting from the Rhine pact so long as the other partners to the treaty are willing on their part to adhere to this pact. This self-explanatory presuppoisition cannot any longer be regarded as fulfilled by France. France has replied to the friendly offers and friendly assurances, made again and again by Germany, with a military pact with the Soviet Union, directed exclusively against Germany and in violation of the Rhine pact. Therefore the Rhine pact of Locarno lost its inner meaning and has ceased to exist in any practical sense. For that reason Germany on her part does not consider herself bound any longer

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to this void pact."

Therefore Hitler had the defendant Ribbentrop come to him in order to question him about this supposed position of England by a reoccupation of Germany.

THE PRESIDENT: You are reading from the document, are you not, Dr. Horn? You began to tell us something about Hitler.

DR. HORN: Yes, I interrupted in order to bring in the role of Ribbentrop briefly. On the basis of this pact and the intention of the French General Staff, Hitler summoned the defendant Ribbentrop.

THE PRESIDENT: We shall hear that from von Ribbentrop, shall we not?

DR. HORN: Mr. President, we are permitted to tie in a few connecting words to the documents. I can explain.

THE PRESIDENT: Yes, Colonel Pokrovsky.

COLONEL POKROVSKY: As far as I understand, the Tribunal has already explained to the defense that the defense can submit documents. However, Dr. Horn does not consider it necessary to stick to the documents but deviates all the time. I have had the opportunity to notice just now that in the document which he has just cited as "Ribbentrop 1", there is complete absence of any reference to the plans of the French General Staff. Among the documents which are in the book of documents submitted by the defense I also could find no copies whatsoever referring to the French General Staff. That is quite incomprehensible. How is it that Dr. Horn appears to be informed with regard to the plans of the French General Staff? On what basis does he refer to these plans since they seem to be completely absent from the documents to which he refers?

DR. HORN: Mr. President.

THE PRESIDENT: One minute. Now, Dr. Horn, what you have just been telling the Tribunal then was not anything explanatory of the document, but you were telling us what Hitler did and what the defendant Ribbentrop did in consequence of what Hitler did. That is not in evidence. You cannot tell us what is not in evidence. You could only give us explanatory remarks to make the document itself intelligible.

DR. HORN: Mr. President, the defendant von Ribbentrop is accused of

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carrying on foreign political activities. The Prosecution has interpreted the foreign political activity according to their light and we were permitted not to give a speech but, in connection with the documents submitted, to show our view, which is opposite to that of the Prosecution, and in order to do that, I must refer to certain facts, documents and quotations. I cannot give a complete picture if I may just submit a document without giving a frame to this matter and show the course of events as they took place.

THE PRESIDENT: Dr. Horn, the Tribunal is not expecting you to give a complete picture at this stage. All you are doing atthe present moment is introducing the evidence. You are going to give the complete picture when you make your final speech. This document is perfectly intelligible. It is a document which is well known, but it is perfectly intelligible without telling us what Hitler or the defendant Ribbentrop did.

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DR. HORN: Mr. President, a little while ago, as far as the objection of the Russian prosecution is concerned, I asked forvon Neurath as a witness. I can only interrogatehim on this point only aftervon Neurath is in the witness box. But it seems to me that I may refer to facts which are evidence to the contrary.

THE PRESIDENT: You see, that would be his function. If you are going to tell us what you think the defendant von Neurath is going to say in answer to questions which you put to him that would be making an opening statement. Well, that has not been provided for by the Charter. We must wait until you question von Neurath.

DR. HORN: Now I will read from the quotation from Ribbentrop Exhibit No. 1 on page ten of the document book.

"The German Government therefore is forced to face the new situation created by this alliance, a situation which is made more critical by the fact that the French-Soviet pact has found its supplement in a pact of exactly parallel nature--between Czechoslovakia and the Soviet Union. In the interest of the elementary right of a nation to safeguard her borders and for the sake of preserving her possibilities for defense the German Reich Government has therefore re-established the full and unrestricted sovereignty of the Reich within the demilitarized zone of the Rhineland, effective today."

May I ask the Tribunal to accept this entire document as evidence. Through this step of the German Government certain articles of the Treaty of Versailles which were concerned with the demilitarization of the Rhine -- these terms had become obsolete since this morning a decision of the Court does not permit me to make any statements about Versailles nor take a position on Versailles.

I ask that I may turn to the document Ribbentrop Exhibit No. 8 which is found on page twenty-one of the document book. May I put a question, Mr. President?

Is it permissible so far as official documents on the Treaty of Versailles is concerned? These things were exchanged between governments

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before the Treaty of Versailles -- these are purely government documents -- but no arguments about the Treaty. May these documents be submitted in line with the decision?

THE PRESIDENT: The ones on page twenty-one?

DR. HORN: I mean Ribbentrop Exhibit No. 3.

THE PRESIDENT: Where is that?

DR. HORN: It is on page fourteen of the document book.

THE PRESIDENT: Dr. Horn, the Tribunal would like to know what issue in this trial this document is relevant to.

DR. HORN: I wanted to justify German opinion to the Treaty of Versailles. We are concerned with Ribbentrop Exhibit No. 2 and we are dealing with the notes of Germany addressed to the United States with an offer for a truce and for a conclusion of the peace. And I wanted to show further through the next note that this offer was based on the Fourteen Points of President Wilson. Further, from Ribbentrop Exhibit No. 4, I wanted to prove that the peace and the truce were concluded on the basis of the Fourteen Points with two exceptions. I also wanted to show through Ribbentrop Exhibit --

SIR DAVID MAXWELL-FYFE: My Lord, I tried not to interrupt, but really this is the issue which the Tribunal ruled on a fortnight ago when the defendant Goering, I think, applied for documents on exactly this issue; and that also, as I understand, the Tribunal ruled on again this morning. The only issue to which this can be directed is whether the Treaty of Versailles was in accordance with the Fourteen Points and if it was therefore an unjust treaty, and it comes directly within the Tribunal's ruling of an hour ago.

DR. HORN: May I add something more, Mr. President? As far as I and my colleagues could interpret the ruling of the Tribunal, we are prohibited from using explanations or statements on the injustice of the Versailles Treaty and also about the fact that this Treaty was concluded under duress. We interpreted it only in that way and no other way.

THE PRESIDENT: That was why I asked you to what issue you said this was relevant, and you said that it was relevant to show what the German

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opinion on the Treaty was. Well, these are documents before the Treaty was made and they seem to be only relevant upon the question whether or not the Treaty was a just treaty or not a just treaty.

DR. HORN: I personally did not want to prove through this document whether the Treaty of Versailles and the peace was just or unjust; I wanted to show that it was a treaty which had many legal loopholes and inadequacies, since the main treaty was not in line with the agreements of the preliminary treaty.

THE PRESIDENT: If the main treaty was not in accordance withthe preliminary treaty then the main treaty would, according to that argument, be an unfair treaty. That is the very point upon which the Tribunal has ruled.

DR. HORN: For that reason, Mr. President, I omitted these documents and said that I will not refer to these documents, as was suggested by the ruling of the Court. I will now turn to document number eight.

THE PRESIDENT: As you are going through a lot of documents we might break off for ten minutes.

(A recess was taken.)

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MR. DODD: I don't want to take much of the Tribunal's time, but in view of the statement of Dr. Horn concerning the condition of the Defendant von Ribbentrop, I think it is required that we inform the Tribunal of his condition as we understand it, which is something quite different from the understanding of Dr. Horn.

I have talked with Colonel Andrus and with one of the Army doctors. Colonel Andrus has talked with both of them. And our understanding is that Ribbentrop is not ill and is able to take the witness-stand; that he is nervous, and appears to be frightened, but he is not disabled in any sense and is capable of testifying.

DR. HORN: I come now to page 21 of the Document Book, and ask the Court to take judicial notice of Exhibit 8 in the Ribbentrop book. It is a copy, and from the Documents of German Politics, which I turned over to the Court, having certified it. It is the speech of Ambassador von Ribbentrop at the 91st meeting of the League of Nations in London, regarding the Soviet Pact, the Locarno Pact and the German Peace Plan. The speech was delivered on the 19th of March, 1936. I refer to page 3 of the speech and begin my quotation with No.5:

"5. According to this alliance, France and Russia appoint themselves the judge in their own affairs by independently determining the aggressor if occasion arises, without resolution or recommendation on the part of the League of Nations, and thereby are able to instigate a war against Germany at their own discretion.

"This strict obligation of the two countries is clearly and unequivocally evident from paragraph 1 of the signatory protocol to thetreaty of alliance.

"In other words, in a given case France may decide at her own discretion whether Germany or Soviet Russia is the aggressor. She only reserves the right to have to expose herself through her military actions based on her own decision to sanctions on the part of the powers guaranteeing the Rhine Pact, namely England and Italy.

"From a legal and 'real political' point of view, this objection is meaningless. In terms of law, if France determines the aggressor herself, how will she then be able to foresee what attitude the powers guaranteeing the Locarno Pact will afterwards assume towards her decision? The answer to the question whether France would have to fear sanctions in such a case depends in practice not only on the faithful adherence to the pact by the guarantors — whichthe

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German Government does not doubt in any way — but also on various prerequisites of a purely factual nature, the probability or improbability of which cannot be perceived in advance.

"In addition, the evaluation of the relationship between the new treaty of alliance and the Rhine Pact cannot possibly be based on the treaty relationship between Germany and France on the one hand and the guaranteeing powers on the other, but only on the immediate relationship between France and Germany themselves. Otherwise one would have to demand from Germany that she tolerate quietly every possible violation of the Rhine Pact by France, basing her confidence on the fact that the guarantors would have to provide for her security. That certainly was not the purpose of the Rhine Pact.

"In terms of real politics, when being attacked by a superior military coalition as a consequence of a decision which is incorrect, having been cast on somebody's own volition, it is an inconsequential consolation to a country to obtain its right through subsequent sanctions against the aggressors condemned by the League of Nations Council. For what kind of sanctions could actually hit such a gigantic coalition which reaches from East Asia to the Channel? These two countries are such powerful and important members and especially militarily strong factors of the League of Nations that according to all practical deliberations sanctions against them would be unthinkable from the start.

"Therefore this second restriction dealing with the consideration of eventual sanctions is wholly inconsequential from a real political point of view.

"I now ask the members of this Council to realize not only the legal, political and practical consequences of this obligation on the part of France to act independently, but to ask yourselves above all whether the opinion can be advocated that the German Government which signed the Locarno Pact would have ever taken upon itself the obligations of this Pact, had it contained such one-sided stipulations as later developed."

I now go to page 26 of the same Document Book, and the same document, and to clarify the German point of view, I add the following:

"The French-Soviet Russian alliance means, beyond that — in the German Government's view of history — a complete elimination of the hitherto existing

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European balance of power and consequently of the fundamental political and legal conditions under which the Locarno Pact was concluded at that time."

Thereby Germany expressed its legal attitude toward the Locarno Pact and the Versailles Treaty, regarding the demilitarization of the Rhineland.

In order to prove its will to disarm, there is in the same document — page 27 of the Document Book -- an exhaustive and detailed plan for disarmament. I ask the Tribunal to accept in evidence the document just cited, so that I may later refer to it.

With this exposition I conclude my presentation on Germany's reasons for reoccupying the Rhineland.

Regarding the role played by the Defendant von Ribbentrop during the occupation of the Rhineland, I shall enter upon that when I call him to the witness-stand.

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After the occupation of the Rhineland, the defendant von Ribbentrop returned to London, where he was appointed as ambassador. On 4 February 1938 he was appointed Foreign Minister, and from that time on, conducted the foreign policy along the lines laid down by Hitler.

In proof of this, I refer to Ribbentrop Exhibit No. 10, to be found in the document book.

THE PRESIDENT: We have not got this book. Our last document in Number 8, I think, but you had better go on.

DR. HORN: This is a very short document that I ask the Tribunal to take judicial notice of. It is an excerpt from the speech of the Fuehrer before the German Reichstag in the Kroll Opera House in Berlin on 19 July 1940. I quote:

"I cannot conclude my remarks without finally thanking that man who for years has carried out my foreign policies with the same selfless devotion as I would have. The name of the Party Member von Ribbentrop will be identified with the political uprising of the German Nation as Foreign Minister, and will be so identified for all time".

I submit this quotation to the Tribunal to show according to what principles the defendant von Ribbentrop conducted the foreign policy. I should like now to ask the Tribunal to hear the witness State Secretary von Steengracht.

(ADOLF von STEENGRACHT, a witness, took the stand and testified as follows:)

BY THE PRESIDENT:

Q Will you state your name, please?

A Adolf Steengracht.

Q Will you repeat this oath after me:

I swear by God the Almighty and Omniscient that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down if you wish.

DIRECT EXAMINATION

BY DR. HORN:

H0093-0045

A What was your last position in the Foreign Office?

Q Since May 1940 I was first Secretary of the Foreign Office.

A What were your activities?

A In order to present my activities in a comprehensive way, I must make the following prefatory remarks:

Since the beginning of the war, the Foreign Minister had his office in the neighborhood of Hitler's Headquarters; that is to say, several hundred kilometers distant from Berlin. Here he carried on his business with a limited personnel. The Foreign Office in Berlin had tasks of a routine and administrative nature, but above all, he was concerned with setting on current business with foreign countries.

Within the sphere of this field of activity, I was Secretary of State, held the responsibility. The foreign political decisions and instructions originated in the headquarters, mostly without any understanding on the part of the Foreign Office.

Q Who determined question of foreign policy?

A The basic line, not only in foreign policy but also down to the most minute details, was determined by Hitler. Ribbentrop frequently stated that the Fuehrer needed no Foreign Minister, he simply wanted only a foreign political secretary. Ribbentrop in my opinion would jave been agreeable to such a position, since, so far as Hitler's authority was concerned, he would have liked to have excluded himself from those, in part, destructive influences. He also had, in part, some influence on Hitler's speeches, so far as they were concerned with the foreign policy. Hitler was accustomed to prepare these speeches without Ribbentrop's help.

Q Were there other offices, other than the Foreign Office, that concerned themselves with foreign policy?

A Yes, there was practicaly not a single office in the Party or its subdivisions that from 1933 on had no foreign political ambitions. Every one of these offices had a sort of foreign bureau that kept up connections with foreign countries and in this way created for itself its own foreign political channels.

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I should judge the number of these to be approximatively thirty. For example, the Hitler Jugend, the SA, the German Work Front, the SS, Rosenberg's office, the Propaganda Ministry, the office of Fritz Walde, Ribbentrop's office, the Nordic Society, the German Academy, the Reichsbahn.

Along with these offices, there is to be counted also the immediate entourage of Hitler--Goering, Bormann, Goebbels, who also were of influence in the formation of foreign policy. Goering, too, as fas as I see, also had a certain influence, but only until 1938, at any rate, sa far as foreign political matters were concerned. Later on he had no such influence.

Q Did Ribbentrop make an effort to prevent such influences or to exclude them?

A From my own observation, I can only give the following judgment: Almost every one of those persons who had ever been in foreign countries, considered themselves to be from then on experts in foreign political enthusiasm.

Unfortunately, the further they were from actual conditions, the more they stood at variance with actual political necessities, and the more strength was shown, the more they stood in contradiction to the primitive feeling for necessity. Uneducated judgment of this sort did have an effect on Hitler and formed in Hitler's mind, along with his so-called intuition, the point of departure for a basic standpoint.

To the possible objection that it is easy for an expert to criticise such an opinion on the part of Hitler, I should like to point out the following: As long as the later German Ambassador in Paris was there, Hitler read his reports with interest, but when he became the official representative of the Reich, his reports were mostly thrown into the wastebasket without having been read. Himler's reports and Goebbels' reports and Bormann's reports played, on the other hand, a much larger role, and reports from uncontrollable agents played a greater role than those of the experts.

H0093-0047

Q Was the Foreign Office responsible for relations with all foreign countries?

A I should like to remark here that I have not yet answered the second part of your previous question, namely, the elimination of these influences.

In accordance with Hitler's methods of work, these so-called wild influences simply could not be excluded. Against this organized lack of organization Ribbentrop waged a bitter war, namely, against all German offices. I should like to state that at least 60 percent of his time was devoted to these things.

Q Was the Foreign Office responsible for the relations with all foreign countries?

A In peace, yes.

Q Did the situation change with the outbreak of war?

A Yes. In point of fact, the Foreign Office lost its responsibility at that moment at which the German bayonet closed the border; direct relations with the foreign countries in all occupied areas were withdrawn. The Foreign Office did not even have the right to have a representative there, or, at any rate, only as observer, without any authority. This is particularly true for the eastern regions and for Norway.

When Ribbentrop made an effort, despite the occupation, to maintain the independence of a country, as, for example, in Norway, this activity was considered almost traitorous, and those responsible had to stop this work, on Hitler's orders, and disappeared from the Foreign Office.

In general, the changed situation of the Foreign Office during the war can be characterized by Hitler's statement: "The Foreign Office shall, so far as possible, disappear from the picture until the end of the war." Hitler wanted to limit the Foreign Office to 20 to 40 people, and it was even partially forbidden to have any connections with the foreign office or to maintain such connections.

The Foreign Office, as such, and its officials, were disliked by Hitler. He considered them defeatists, and what not, who could concern themselves with a matter only if it was not to be carried out.

Q Was there any foreign policy, in a traditional sense, on the part of Germany.

H0093-0048

A No; at least, I never noticed anything of it. Hitler made the statement: "Diplomacy is treason; treaties are to be used only as long as they are useful." That was Hitler's opinion of all diplomats in the world.

Q Did the Foreign Office have any influence in the eastern regions and the regions that were under civilian administration?

A I have already touched on this question. I have already said that in those regions in which there was a military government or a civilian administration, a representative of the Foreign Office, if he was tolerated at all, was tolerated only as an observer and occupied no official position.

I think it would be going too far on my part if I went through all the various countries and gave the details on them. The situations varied.

Q Do you consider Ribbentrop a typical Nazi or not?

A Ribbentrop was, in his whole attitude, no typical exponent of National Socialism. He knew extraordinarily little of the doctrines of National Socialism. He felt himself only personally bound to Hitler, whom he followed with soldierly obedience, and he also stood under a certain hypnotic dependence on Hitler. However, I could not characterize him as a typical exponent of National Socialism.

Q Was Hitler a man who was accessible to expositions and objections?

A In the first years after 1933 he was such a person, but he closed himself off more and more, during the course of the years, from such influence. From the time that I was Secretary of State on, I saw him only twice on official occasions. I can only judge from the success or lack of success of our work. In the course of my activities, covering almost two years, I can remember no single case in which he agreed to any one of our suggestions. On the contrary, it was always to be feared that through some impulse or impetus of a personal nature he would be persuaded to take contrary and forceful measures. The basic trait of his character was lack of confidence, which bore heavy fruit.

Thus, experts and decent people who tried to influence Hitler were engaged in an altogether vain task. On the other hand, however, when Hitler was urged to do violent acts, on the part of irresponsible people, he responded to these influences. These men were then called by him "strong", whereas the behaviour of anyone who was even half-way normal was called "weak" or "defeatist". And through an opinion that might have been uttered just once in this way, the

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influence of that man could be forever destroyed.

Q What conclusions did Hitler draw from contradictions that might arise in the various influences subjected to him?

A I cannot answer that question in general terms. I have already adumbrated that in my previous answers. First of all the reaction depended, in my opinion, on the mood of the Dictator at the time. It is also a matter of importance as to who contradicted and how much strength he had already shown. But how the atmosphere really was can perhaps be demonstrated by this case.

When Ribbentrop's liaison man with Hitler told about the circumstances shortly after Roosevelt's death, he said: "Today was almost the last hour of my life. Goebbels came out of the Fuehrer's room and reported on Germany's chances in the future so far as they were affected by Roosevelt's death. He drew up a very hopeful picture of the future. I, Hewel, was of the opinion that that view was not justified and recommended to him to be careful viz a viz Goebbels. Hitler fell into a rage, called me a person who demoralized everyone, who deprived every decent person of his good mood and hopes. I was forced," Hewel reports, "to go privately to Goebbels and to ask him to take this matter on his own shoulders, for if he had informed the Fuehrer of my attitude, Hitler would have called Rattenhuber, the Chief of his Security Service, and had me taken away and shot."

Q How do you explain the fact that so many people came into Hitler's immediate neighborhood, although they didn't agree with him?

A It is correct that many people remained in their offices although they disapproved of Hitler's methods of government, indeed, who were inimical to those methods. The reasons for this are of various sorts.

First, it must be said that the Nazi Party, as the strongest Party in the Reichstag, according to Parliamentary rules, had come to power. The officialdom, in consequence of this change of government, had no reason to retire from its various offices. The transition to dictatorship, and the therewith connected altogether different concept of the State, did not permit the individual officials to have their own opinions of the Government. At first there was a terrible reign of terror everywhere in the ministries and chancelleries.

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In private dwellings and in restaurants there were spies who, out of fanaticism or for pay, were willing to denounce everything they heard.. Nevertheless, many would have done everything they could if their withdrawal would have been of any avail, but it became obvious that these cases were simply useless self-sacrifice, the consequences of which were concealed from the public and which had no effect.

But above all it is important that in the offices vacated a radical Nazi was placed. For this reason many people remained at their posts in order to prevent the development that I have just described.

The great number of the acts of cruelty that were committed by Hitler or Himmler or were ordered by them led many foreigners to the conclusion that the German people in their entirety were equally guilty of these things and had known of them. This is not the case. Even most of the people in high public positions found out about these matters only after the conclusion of the war--about their extent and their details. Perhaps the key to this can be found in the speech that Himmler delivered in Posen on October 3, 1943, before his gruppenfuehrer, and of which I discovered anything only for the first time here. In this speech he instructed them to keep the concentration camps and the actions against the Jews just as secret as the events of the 20th of July were being kept secret--of which the German people knew nothing.

Guilty of all these occurrences are only a few--very few--people out of the thousands who might be considered guilty. It was these who carried out this reign of terror against the German people. But those who thought differently--and to this is to be thanked that, for example, the Geneva Convention was not renounced and tens or even hundreds of thousands of English or American fliers and prisoners were not shot. Unfortunate prisoners and those seriously wounded were returned to their families in their home countries. Greece in its terrible condition received food. Balances were kept as far as possible in Belgium and France, and many senseless acts of destruction in foreign countries and in the home country were in part prevented and in part alleviated.

It is to this that we can attribute the fact that the principles of justice remained alive. These circles were encouraged in their attitude earlier by the fact that no foreign power had used the conditions in Germany

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as a reason for breaking off diplomatic relations but until the outbreak of war had relations with National Socialism and concluded treaties with it and had its diplomatic representatives at the National Socialist party days at Nurnberg.

It was particularly noted that National Socialist Germany, outwardly at any rate, received much more consideration from foreign countries than had the Weimar Republic, despite all fidelty to treaties or points of law.

Then the war came, and therewith officials had a special official duty as well as every individual German: When could these people who felt themselves to be servants of their people leave their posts, if they could at all? When would such a step be useful to the people? When would such a step warn Hitler?

Q Did you make suggestions to Ribbentrop of a foreign political nature after the French campaign?

A Yes. I had at that time, to be sure, no official position, but I nevertheless felt the need, and I believe it was a heartfelt wish of all Germans to bring about again peaceful conditions in the world. On the day of the capitulation of the King of Belgium I suggested, first, the creation of the United States of Europe on the democratic basis. This would have meant independence of Holland and Belgium. Poland, and so on. If this could not be brought about, at any rate to make as many encroachments on the self-determination of the powers as possible.

Q Did Ribbentrop speak to Hitler on this Matter?

A So far as I know, yes; but at that time Hitler considered such plans as premature.

Q Did you speak to Ribbentrop again in the winter of 1942 on the same subject?

A Yes. Ribbentrop at that time also laid down very concrete proposals. He foresaw the sovereignty and independence of all the conquered countries, including Poland, and, Moreover, an exhaustive far-reaching collaboration.

Q How did Hitler react to these proposals?

A Hitler turned down these proposals with the reason that the time was not ripe--the military situation was not favorable enough--so that these would be interpreted as signs of weakness.

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Q Now to another question: Before the outbreak of the Russian campaign, Did Ribbentrop mention to Hitler Bismarck's statement about the danger of preventive wars?

A Ribbentrop told me several times that he was very concerned with the Pact with Russia. In regard to preventive war, he had stated to Hitler: "God does not let anyone look into His cards." Ribbentrop also made efforts to bring Russian experts to Hitler in order to explain the situation there to Hitler and to advise him to wait before he started a war. Hitler paid no attention to these people. So far as I know only Ambassador Graf Schulenburg had a short audience with him. He, who considered such a war inadvisable, could make clear his attitude toward Russia and the reasons why he considered it inadvisable. Hitler held his own speech on this subject for about twenty minutes without letting him speak a word and the took his leave of him.

THE PRESIDENT: Dr. Horn, the order of the Tribundl was that witnesses might refresh their memory by notes, but this witness here seems to the Tribunal to have read practically every word he said. That is not refreshing your memory with notes. That is making a speech which you have written out beforehand, and if that sort of thing goes on the Tribunal will have to think whether it is necessary to alter its rule and to adhere to the ordinary rule, which is that no witness is allowed to refer to any notes at all except those that are made at the time.

DR. HORN: Mr. President, to be sure, I discussed my questions with the witness, but his notes, if he has any, were made by the witness and were made without my knowledge of their contents. I shall now ask the witness to answer my questions without making use of any means with which I a unfamiliar.

BY DR. HORN:

Q Witness, did you know that Ribbentrop tried to influence Hitler to stop interference with Jews and the Church?

A Yes, K knew of this. I know that Ribbentrop spoke frequently with Hitler on this theme. I was absolutely desperate because of this policy toward Jews and churches, and for this reason had occasion to speak to Ribbentrop about it, but he explained to me again and again when he returned from Hitler that Hitler could not be spoken to on these subjects. Hitler said that these problems had to be solved befor he had died.

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Q. Did von Ribbentrop and the Foreign Office have any knowledge of the military planning?

A. Ribbentrop frequently fold me that he was completely unoriented militarily. So far as the office is concerned, this Foreign Office had no influence on strategic planning.

Q. What were the relations between Ribbentrop, Himmler, Goebbels and Bormann?

A. The relations between Ribbentrop and those other gentlemen were as bad as can be imagined. There was a perpetual fight between them. In my opinion Ribbentrop would have been Himmler's first sacrifice if occasion had arisen. A fight was being carried on continually between these men.

Q. What was the relationship in general in the highest Party positions?

A. The relations in the individual offices depended on the character of the chief of the section and were various. But one can say that the relations were by no means good, and, above all, that reciprocal orientation, so necessary for conducting the State, was not there. It was almost impossible for one minister to discuss a question with another minister by telephone, as impossible as if the Angel Gabriel had come down to earth. Even in the most important matters a factual discussion could not take place. There was, in other words, no connection. Moreover, they were very different, and not only in characters but in every other respect.

Q. Do you know anything about objections on the part of the Vatican regarding the Polish clergy?

A. I heard about that later, and it must be a matter of two protests concerning the Polish clergy. These protests were submitted by the Nuncio to the Secretary of State at that time. He, the Secretary of State, turned these protests over to Ribbentrop, and he in his turn presented them to Hitler.

Since the Vatican, which did not recognize the General Government, and accordingly, since the Nuncio was not responsible in these regions, Hitler declared when he saw these notes, "They are just on long lie. Give these notes back to the Nuncio with a reproof and tell him that we want to hear nothing mor about the matter."

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Q. Were these notes worked on by the Foreign Office?

A. Sharp and precise instructions were issued that all cases in which matters were brought up by representatives of countries in matters for which they were not authorized, whether in converstaions, verbally, written notes, or any other piece of wirting -- instructions were issued that these were not to be accepted, and our protests were turned down sharply.

Q. Did you know that Ribbentrop prevented the shooting of about 10,000 fliers after the air attack on Dresden?

A. I know the following: Ribbentrop's liaison man with Hitler called me up one day in great excitement and informed me that on a suggestion by Goebbels the Fuehrer intended, as reprisal for the air attack on Dresden, to kill a large number of English and American fliers of war, largely fliers. I went immediately to Ribbentrop and informed him of this. Ribbentrop became very excited, stated that this was impossible, called up this liaison man in person in order to verify the report. The liaison man corroborated it. Then Ribbentrop got up and went to Hitler, came back after a half hour, and said that he had succeeded in having Hitler withdraw this report. That is all I know about that matter.

Q. Do you know anything about the meeting of an anti-Jewish Congress?

A. I know something about it, namely, I believe this same liaison man informed us that on a suggestion of Bormann's, Hitler had ordered the immediate calling of an anti-Jewish Congress through Rosenberg's office. Ribbentrop did not want to believe this, but nevertheless had to accept it as true once he had spoken with our liaison officer. Then, since on the basis of this decision we could do nothing officially to prevent this thing, we nevertheless insinuated ourselves into the matter. We made efforts by a policy of delay to make the carrying out of this anti-Jewish Congress impossible. Since the war ended in 1945, this policy of delay was successful, and the Congress did not take place.

Q. Could you observe whether Ribbentrop took a strong attitude toward his collaborators for reasons of state, although he often thought entirely differently?

A. You ask me to express a judgment. I believe, however, that I must

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affirm this. Thinking that he was being loyal to Hitler, Ribbentrop in my opinion in those visits when he went to Hitler and found Hitler with exactly the opposite opinion, tried to explain Hitler's attitude. I should like to assume that this stood in contradiction to his own ideas.

Q. Did Ribbentrop during the course of the war ask that Rome and Florence be spared?

A. So far as I know he did speak with Hitler on this subject.

Q. Do you know about an article by Goebbels in the paper "Reich" or perhaps the paper "Voelkischer Beobachter," an article dealing with lynch shootings?

A. Yes. Once by accident I came to Ribbentrop when he was reading a paper and was again very excited. He asked me if I had read this unheard of article by Goebbels. It was an article on Lynch law.

Q. Did Ribbentrop protest to Goebbels about this article?

A. Of course he charged our press chief who had connections with Goebbels entered a protest against this article. But to his surprise he found out that this protest was useless since the article had not only been inspired but recommended by Hitler, so that there was nothing more to be done.

Q. How did the Foreign Office stand on the opinions espressed in this article?

A. The Foreign Office repudiated such articles vehemently, because they were offenses against international law and thus brought us one step further from the family of nations. Moreover, if appealed to the lower instincts of man, and both in internal and external policy did great damage, particularly since many of those articles were read by several millions of people and did their own sort of irreparable damage.

We therefore insisted that under no circumstances should such things appear in the press any further. I must, however, unfortunately, state that we had great difficulties in this matter since the enemy low altitude fliers often shot at peasants in the fields and pedestrians in the streets, that is to say, purely civilian people. Our arguments that we did not want to offend

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international law on our part under these conditions were not taken into account either by the German people or by Hitler. On the contrary, in this case too we were regarded as interested in formal law only. But we did try, with the help of military officers, to prevent the carrying out of this order.

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Q Do you know of a Battalion Guensberg?

A I do not know of a Battalion Guensberg but I know of a previous Legation Consular Guensberg in the Foreign Office. His office received, so far as I recall --I did not at that time concern myself with these matters--received the charge from Ribbentrop along with a few very small, a few experts, from the Foreign Office, to follow the fighting troops and see to it that: first, the foreign missions, for instance, in Brussels and Paris, and so forth, that stood under the protection of the guarantor powers, that these buildings should not be entered by our troops; secondly, Guensberg was charged with making sure that the files that were of foreign political interest were not disturbed. After the conclusion of the French campaign, Guensberg, so far as I recall, was no longer active officially. What he had been doing was carried on by the Gestapo, by the Secret Field Police, because from then on, foreign office officials could not enter foreign countries.

Q When did Guensberg's job end?

A Ribbentrop lost interest, after these events, in Guensberg, and then after the beginning of the Russian campaign, Guensberg, so far as I remember, reported again for duty and said that he intended to do the same thing in the East, and Ribbentrop told him, "Very well, you may go with a few people to the army groups and see whether anything of interest is happening there and also see to it that when we approach Moscow, the foreign embassies are not damaged and that the documents are not damaged," but he did not consider himself any longer to be a part of the foreign office and received his orders from elsewhere. Then, as I later heard, he had a large number of men under him and could even wear a military uniform.

Q He did not belong to the foreign office in a military capacity?

A No. When Ribbentrop heard that Guensberg had such a large job under him, charged me to turn personally to the SS and say that I and Ribbentrop do not want to have Guensberg under me any longer, and at that time I told Obergruppenfuehrer Wolff--I should like to point out that we wanted nothing more to do with Guensberg--"see to it that you keep him with the Waffen SS along with all his subordinates." That is all I know about the matter of Guensberg.

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DR. HORN: Would the Lord Justice like to conclude this session or should I continue?

THE PRESIDENT: Unless you are going to conclude almost immediately, we better adjourn. Will you be sometime longer with this witness?

DR. HORN: I have a number of further questions.

(The Tribunal adjourned until 27 March, 1946, at 1000 hours).